

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case No. 07-CR-73

CHARLES T. MCINTOSH,

Defendant.

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**ORDER**

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Charles T. McIntosh was convicted on his plea of guilty of Conspiracy to Distribute Crack Cocaine and sentenced to two hundred sixteen months in prison. The Judgment of Conviction was entered on September 7, 2007. McIntosh has now filed a motion for an extension of time in which to file a post-conviction motion pursuant to 28 U.S.C. § 2255. McIntosh contends that he needs additional time in which to file his § 2255 motion because he is unable to obtain his transcripts.

McIntosh's motion will be denied. First, it is unclear whether the court has any authority to extend the time within which a § 2255 motion may be filed. While, under certain circumstances the time limit can be tolled, McIntosh does not cite any provision of the act which authorizes the Court to extend the time prior to its expiration.

Secondly, McIntosh cites no reason, other than the inability to obtain his transcripts, why he would be unable to meet the deadline. Since Judgment was not entered until September 7, 2007, he still has more than a month to file his § 2255 motion. While transcripts may be needed in order

to substantiate the allegations that would support a claim for relief, McIntosh gives no reason to suggest that they are necessary simply to state such a claim.

Finally, I note that the court recently appointed Attorney Ann T. Bowe to represent McIntosh concerning his potential right to relief under the retroactive crack cocaine guideline amendment. To the extent the relief McIntosh seeks would be pursuant to that provision, it is not subject to the § 2255 one year statute of limitations. Moreover, since counsel has been appointed, requests for extensions of time, transcripts and other matters will be addressed by counsel.

Accordingly, and for the foregoing reason, the motion is **DENIED**.

**SO ORDERED** this 25th day of July, 2008.

s/ William C. Griesbach  
William C. Griesbach  
United States District Judge